



**Arizona State Board of Pharmacy**

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**THE ARIZONA STATE BOARD OF PHARMACY  
HELD A REGULAR MEETING MARCH 19 AND MARCH 20, 2008  
AT THE ARIZONA STATE BOARD OF PHARMACY OFFICE  
PHOENIX, AZ**

**MINUTES FOR REGULAR MEETING**

**AGENDA ITEM 1 – Call to Order – March 19, 2008**

President Berry convened the meeting at 9:00 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Zina Berry, Vice President Dennis McAllister, Joanne Galindo, Steven Haiber, Louanne Honeyestewa, Dan Milovich, Ridge Smidt, Paul Sypherd, and Tom Van Hassel. The following staff members were present: Compliance Officers Rich Cieslinski, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell. Dr. Sypherd left at noon the first day.

Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

**AGENDA ITEM 2 – Introduction of New Board Members**

President Berry introduced the two new Board Members appointed by the Governor. Mr. Dan Milovich was appointed as the new Pharmacist Board Member and Ms. Joanne Galindo was appointed as the new Public Board Member.

Mr. Milovich gave a brief overview of his educational background and work experience.

Ms. Galindo gave a brief overview of her educational background, work experience, and past Board Experiences.

**AGENDA ITEM 3 – Declaration of Conflicts of Interest**

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 4, Approval of telephonic meeting minutes.

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule F, Consent for Eric Kesterson.

Due to a conflict of interest, Mr. McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 5, Schedule A, Wholesale Permit for Banner Health.

Due to a conflict of interest, Mr. McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule F, Consent for George Newman.

Due to a conflict of interest, Mr. Milovich recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule F, Consent for Payal Makadia.

Due to a conflict of interest, Mr. Van Hassell recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule F, Consents for Korman Healthcare.

Due to a conflict of interest, Dr. Berry recused herself from participating in the review, discussion, and proposed action concerning Agenda Item 10, Schedule D, Complaint #3446.

Due to a conflict of interest, Dr. Berry recused herself from participating in the review, discussion, and proposed action concerning Agenda Item 11, Schedule E, Complaints #3492 and #3495.

#### **AGENDA ITEM 4 – Approval of Minutes**

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Haiber and seconded by Mr. Van Hassel**, the minutes of the Regular Meeting held on January 23 and 24, 2008 were unanimously approved by the Board Members.

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Van Hassel and seconded by Ms. Honeyestewa**, the minutes of the Telephonic Meeting held on March 3, 2008 were unanimously approved by the Board Members. Mr. Haiber was recused.

#### **AGENDA ITEM 5 – Permits and Licenses**

President Berry stated that all permits were in order for resident pharmacies and representatives were present to answer questions from Board members.

Owner Deborah Louchois, Pharmacist Matthew Curley, and Dave Arakelian Regional Manager for the Device Division were present to answer Board Member's questions.

President Van Berry opened the discussion by asking the applicants to describe the nature of their new pharmacy business.

Ms. Louchois stated that they would like to open a pharmacy in Arizona. Ms. Louchois stated that they would be specializing in Veterinary medications.

Dr. Berry asked the applicants to describe their customer base. Ms. Louchois stated that their customers would be veterinarians.

Mr. Arakelian stated that the pharmacy plans to sale the medications to the veterinarian and the product would be delivered to the client's home.

Dr. Berry asked if the animal is seen by the veterinarian. Mr. Arakelian stated yes.

Mr. Van Hassel asked if they would be compounding medications. Mr. Curley stated that they would be dispensing only originally packaged products. Mr. Curley stated that the products would be patient specific and labeled for the patient.

Mr. Curley stated that the veterinarians are located in California and they would be primarily a mail-order pharmacy.

Mr. Milovich asked how refills would be handled. Mr. Curley stated that the veterinarian or the patient could request a refill.

Mr. Wand asked how the web plays a role in facilitating the pharmacy's business. Mr. Curley stated that the pharmacy would have extensive advertising on the web. Mr. Curley stated that the consumer would go to a veterinarian that would know about the pharmacy. Mr. Curley stated that the advertisements would be on the veterinarian's web site.

Mr. Wand asked what types of prescriptions the pharmacy would accept from patients. Mr. Curley stated that they would accept written and telephone prescriptions.

Mr. Van Hassel asked what type of medications they would be filling for veterinarians.

Mr. Curley stated that they would be filling specialized products such as pre-packaged medications, such as HeartGuard. Mr. Curley stated that the products would not be compounded and they would not dispense controlled substances.

Mr. Van Hassel asked if there would be internet forms where the consumer orders the product and then a veterinarian would write the prescription. Mr. Curley stated that there would be no Internet forms used and the pharmacy would not be servicing clients in Arizona. Mr. Curley stated that the animals would be seen by the veterinarian and a prescription would be issued to the patient.

Mr. McAllister stated that he is having a hard time understanding their business model.

Mr. McAllister asked the applicants what would be the advantage for the veterinarian. Mr. Arakelian stated that the veterinarian gets out of the pharmacy aspect of the business and offers a convenience to his client.

Mr. McAllister asked if this is a controlled distribution network. Ms. Louchios stated that the veterinarian would see the animal. Ms. Louchios stated that there is no monetary kickback. Ms. Louchios stated that the pharmacy would fill the prescription for either the veterinarian or the customer.

Mr. Milovich asked if there was any financial incentive for pharmacy. Mr. Arakelian stated that the veterinarian sells the product to the client. Mr. Arakelian stated that the pharmacy serves as a fulfillment center for the veterinary practice.

Dr. Berry asked if the product is sold to the veterinarian and the veterinarian sells the product to the patient. Mr. Arakelian stated that the product is sold to the veterinarian.

Mr. McAllister told Mr. Arakelian if they are selling the product to the veterinarian then they would be a wholesaler.

Dr. Sypherd asked who is receiving money from the patient. Mr. Arakelian stated that the veterinarian receives the money.

Dr. Sypherd asked why they are putting the pharmacy in Arizona if their client base is in California. Mr. Arakelian stated that the real estate is cheaper in Arizona.

Mr. Milovich asked how the pharmacy makes money. Mr. Arakelian stated that the pharmacy sells to the veterinarian at a very narrow margin.

Mr. Haiber asked who bears the shipping costs. Mr. Arakelian stated that the costs of shipping are passed on to the veterinarian.

Mr. Wand suggested that the application could be tabled until tomorrow or the Board could go into Executive Session to obtain legal advice.

Ms. Campbell stated that she would prefer if the Board would table the matter to enable her to review the application.

Mr. Wand asked if the patient gets lower pricing by going to a specific veterinarian. Mr. Curley replied that they would be mass stocking items to reduce the price.

Mr. Van Hassel asked about the extra unlabeled space on the floor plan. Mr. Arakelian stated that the rest of the space would be wholesale space. Mr. Arakelian stated that they would provide other veterinary supplies in addition to prescription items.

Dr. Berry asked if they fill prescriptions at their California wholesale site. Ms. Louchios stated that they do not have space at their California site for a pharmacy. Mr. Arakelian stated that the wholesale business is housed in the existing warehouse space and there is no room for a pharmacy.

Dr. Berry asked what the advantage is to the veterinarian not to dispense the product. Mr. Arakalien stated that the veterinarian does not have to pay to stock the product and the cost is greater for the veterinarian to put the product out the door than it is for a pharmacy.

Mr. Wand asked if it functions more like a third party payment than a rebate to the veterinarian. Mr. Arakelian stated that the concept is similar.

Mr. Wand asked if the veterinarian would still continue to dispense. Mr. Arakelian stated that they would continue to dispense some medications.

Mr. Curley stated that if a client needed ongoing therapy the prescription could be mailed to their house every month.

Mr. Wand asked if there would be terminals in the veterinarian's offices. Mr. Arakelian stated that the veterinarian would have use of a terminal that would give him access to pricing.

Dr. Smidt asked about the advertising on the web. Mr. Arakelian stated that the advertising sits on the veterinarian's websites.

**On motion by Dr. Smidt and seconded by Mr. Van Hassel,** a motion was placed on the floor to table the application until tomorrow.

Mr. McAllister stated that he is unclear on several issues and would recommend tabling the application until the May meeting. Mr. McAllister stated that he is not certain if they are a wholesaler or a pharmacy.

Mr. McAllister suggested that the applicants review the regulations for a pharmacy and present a schematic of their business model to the Board.

**The original motion was amended by Dr. Smidt and seconded by Mr. Van Hassel,** the Board unanimously agreed to table the application request until the May meeting requesting that the applicants provide a schematic business model to the Board.

At the conclusion of questions from the Board Members and **on motion by Mr. McAllister and seconded by Dr. Smidt,** the Board unanimously approved the resident permits listed below. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

## **RESIDENT (In Arizona)**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Coram Alternate Site Services, Inc.	6375 E. Tanque Verde Rd, Suite 50, Tucson, AZ 85715	Coram Specialty Infusion Services, Inc.
Bashas' United Drug #39	1500 N. Park Dr., Winslow, AZ 86047	Bashas' Inc.
Pine Drugs	4010 N. Hwy 87, Pine, AZ 85544	Casey Allen
CareSite Pharmacy	3805 E. Bell Rd., Phoenix, AZ 85032	SureHealth, LLC
Wal-Mart Pharmacy #10-4473	2175 W. Ruthrauft Rd, Tucson, AZ 85705	Wal-Mart Stores, Inc.
Fry's Food Stores of AZ Pharmacy #682	155 W. Combs Rd, Queen Creek, AZ 85242	Smiths Food and Drug Centers, Inc.
Fry's Food Stores of AZ Pharmacy #669	2858 N. Pinal Ave, Casa Grande, AZ 85222	Smiths Food and Drug Centers, Inc.

The Application for WebVetRx was tabled.

## **Non-Resident Permits**

President Berry stated that all permits were in order for non- resident pharmacies and representatives were present to answer questions from Board members.

## **College Pharmacy**

Pharmacist in Charge Jerry Gillick was present to answer questions from Board Members.

President Berry opened the discussion by asking Mr. Gillick if the Colorado Board of pharmacy has disciplined the pharmacy.

Mr. Gillick stated that the previous owner was disciplined by the Board and the pharmacy has had a change of ownership as stipulated by the Colorado Board.

Dr. Berry asked if the stipulations carry over to the new ownership. Mr. Gillick replied yes.

Dr. Berry asked Mr. Gillick to describe the stipulation. Mr. Gillick stated that they are not allowed to compound growth hormone based on federal allegations.

Mr. Gillick stated that the pharmacy has been in business for 34 years and the new owners must abide by the stipulation.

Mr. Wand asked Mr. Gillick how long he has worked at the pharmacy. Mr. Gillick stated that he has worked at the pharmacy since 2005. Mr. Gillick stated that the former owner gave up his license and his shares were sold to the pension plan that is now the new ownership.

Mr. Wand asked Mr. Gillick how long the stipulation will remain in place. Mr. Gillick stated that the stipulation was the result of an FDA investigation of the former owner, Tom Bader. Mr. Gillick stated that if Mr. Bader is successful in his court case, the stipulation could be reversed.

Dr. Smidt asked about the new ownership. Mr. Gillick stated that the pharmacy is now owned by an ESOP.

Mr. Haiber asked Mr. Gillick if the medications compounded were for legal use. Mr. Gillick stated that the FDA felt that the human growth hormone that they were compounding needed a new drug application. Mr. Gillick stated that every product compounded was for a legal use.

Dr. Berry asked when the stipulation was placed on the Pharmacy license by the Colorado Board. Mr. Gillick stated that occurred on January 15, 2008.

Dr. Smidt asked if they compound any commercially available products. Mr. Gillick stated that they do not compound any commercially available products and may compound a similar product without a preservative.

Dr. Smidt asked Mr. Gillick to describe the Federal complaint against the pharmacy. Mr. Gillick stated that the FDA stated that they used a non-approved human growth hormone powder imported from China. Mr. Gillick stated that the owner stated that the product was FDA approved.

Mr. Van Hassel asked Mr. Gillick why he was not involved in the indictment. Mr. Gillick stated that the Grand Jury investigation started in 2003 and the pharmacy was raided in 2004. Mr. Gillick stated that Mr. Bader was involved in suing the FDA and won the lawsuit concerning compounding from bulk medications. Mr. Gillick stated that Mr. Bader felt this was a form of retaliation.

Mr. Haiber asked Mr. Gillick if they exceeded the 10% distribution rule. Mr. Gillick stated that they do not believe that they exceeded the 10% casual sale rule.

Mr. Milovich asked Mr. Gillick about the allegation that they placed an expiration date on the product greater than a year. Mr. Gillick stated that the allegation is not true. Mr. Gillick stated that all batches of somatropin met the guidelines.

Mr. McAllister made a motion that the Board offer College Pharmacy a consent agreement that mirrors Colorado sanctions.

Ms. Campbell suggested that the Board go into Executive Session to obtain legal advice.

**On motion by Mr. Van Hassel and seconded by Mr. Haiber,** the Board unanimously agreed to convene in Executive Session.

The Board reconvened in regular session.

Mr. McAllister withdrew his motion.

Dr. Berry asked Mr. Gillick if he is currently shipping to Arizona. Mr. Gillick believes that they are still shipping to Arizona.

Mr. Gillick stated that he is not certain if their old license is still current. Ms. Frush stated that there has been a change of ownership effective January and the old license would no longer be active.

**On motion by Mr. Van Hassel and seconded by Dr. Smidt**, the Board unanimously agreed to table the application submitted by College Pharmacy until the Board can gather additional information from the Colorado Board and obtain meeting minutes from the Utah and Nevada Board meetings where the applications for College Pharmacy were denied. The Board also asked Mr. Gillick to provide records showing distribution into Arizona and to not ship into Arizona until the pharmacy license is approved. The Board also asked Mr. Gillick to provide the Board with information concerning the 2005 disciplinary action.

At the conclusion of questions from the Board Members and **on motion by Mr. Van Hassel and Mr. Haiber**, the Board unanimously approved the non-resident permits listed below.

#### **NON-RESIDENT (Out of State)**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Abrams Royal Pharmacy	8220 Abrams Rd., Dallas, TX 75231	Bob Scarbrough
Diplomat Specialty Pharmacy	2029 S. Elms Rd., Bldg B, Ste.G, Swartz Creek, MI 48473	Diplomat Pharmacy, Inc.
Platinum Care Pharmacy Inc.	8500 14 <sup>th</sup> St., Detroit, MI 48206	Platinum Care Pharmacy, Inc.
Eagle Pharmacy, Inc.	2200 Riverchase Center, Suite 675, Birmingham, AL 35244	
Stroheckers Pharmacy	2855-A SW Patton Rd. Portland, OR 97201	Stroheckers Pharmacy, Inc.
Drug Crafters	3550 Parkwood Blvd., Suite 630, Frisco, TX 75034	Drug Crafters
RX3 Pharmacy	7855 Redpine Rd., Richmond, VA 23237	RX SOUTH LLC
RightSource - Louisville	1951 Bishops Lane, Suite 102, Louisville, KY 40218	Humana Pharmacy, Inc.
Monument Pharmacy, Inc.	115C Second St, POB 467, Monument, CO 80132	Monument Pharmacy, Inc.
Support Plus Medical	125951 SW 41 <sup>st</sup> St. Suite 100, Davie, FL 33331 (O)	Support Plus Medical
JBP Pharmacy Inc.	5020 South "C" Street, Oxnard, CA 93033	JBP Pharmacy Inc.

(O) = Ownership Change



## **Wholesaler Permits**

President Berry stated that all permits were in order for resident wholesalers and representatives were present to answer questions from Board members.

## **Banner Health**

**Mr. McAllister was recused due to a conflict of interest.**

Doug Bowen, Vice President of Material Management, was present to answer questions for Board Members.

President Berry opened the discussion by asking Mr. Bowen to discuss the nature of their wholesale business.

Mr. Bowen stated that they would be wholesaling internally to their own hospitals and surgery centers. Mr. Bowen stated that they own 7 hospitals and 8 surgery centers.

Mr. Bowen stated that their goals are to lessen drug shortages and be able to buy in bulk quantities for economy of scale purposes.

Mr. Van Hassel asked if they would be wholesaling to anyone else other than their hospitals. Mr. Bowen replied no. Mr. Bowen stated that they would not be wholesaling controlled substances and would not be repackaging any medications.

Mr. Van Hassel asked by buying medications that are in short supply would they not be creating shortages for others. Mr. Bowen replied that they would not be hoarding medications but buying for their needs.

Mr. Milovich asked if they have an area for outdated medications. Mr. Bowen replied that they will have a quarantined area and Mr. Cieslinski has been to the site.

Mr. Bowen stated that they would have the required refrigerator logs and temperature logs.

Mr. Bowen stated that Patti Prior, a certified pharmacy technician, would serve as the designated representative. Mr. Bowen stated that a part-time pharmacist would also be available to assist Ms. Prior.

**On motion by Dr. Sypherd and seconded by Mr. Haiber**, the Board approved the resident wholesale permits listed below. There was one nay vote by Mr. Van Hassel. All permits are subject to final inspection by a Board Compliance Officer where appropriate.

<b>WHOLESALER</b>	<b>LOCATION</b>	<b>OWNER</b>
Banner Health	7300 W. Detroit St. , Chandler, AZ 85226	Banner Health
Ulta Salon, Cosmetics & Fragrance, Inc	4570 W. Lower Buckeye Rd. , Phoenix, AZ 85043	Ulta Salon, Cosmetics & Fragrance, Inc

## **Manufacturer Permit**

President Berry stated that all permits were in order for resident manufacturers and representatives were present to answer questions from Board members.

## **Avent Manufacturer**

Director of Operations Roger Morrison, Brian Cecilia, and Pharmacist in Charge Donald Pickard were present to answer Board Member's questions. Roger Morris was present as legal counsel.

President Berry asked the applicants to describe the nature of their business and their request for a waiver.

Mr. Morrison stated that Avent is a division of Kimberly-Clark. Mr. Morrison stated that they are requesting a manufacturer's permit for their pain management kitting operations. Mr. Morrison stated that their kitting operation would take components and kit them together per a doctor's order. Mr. Morrison stated that the kitting operation would be located at their Tucson facility and would have 32 employees in the area. Mr. Morrison stated that the entrance to the kitting area is secure and only qualified individuals would have access to the area. Mr. Morrison stated that the process would be validated by FDA requirements.

Mr. Morris stated that they are requesting a waiver for the requirement to have a pharmacist on site while the repackaging process is taking place. Mr. Morris stated that the Board can waive a requirement for technological or experimental reasons. Mr. Morris stated that the company has employed the same technology in Utah for the last 20 years. Mr. Morris stated that Avent is willing to supply reports to the Board for the next 6 months to 1 year if the Board desires.

Mr. Wand stated that a Bill that would eliminate a pharmacist at a Manufacturing site has passed the House and Senate Health Committee.

**On motion by Mr. McAllister and seconded by Mr. Haiber**, the Board unanimously approved the Manufacturers application for Avent, Inc. and approved the waiver allowing Avent, Inc. to repackage without a pharmacist present.

## **Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees**

President Berry stated that all license requests and applications were in order.

**On motion by Mr. McAllister and seconded by Mr. Haiber**, the Board unanimously approved the Pharmacists licenses listed on the attachments.

**On motion by Mr. Haiber and seconded by Mr. Milovich**, the Board unanimously approved the Intern licenses listed on the attachments.

**On motion by Ms. Honeystewa and seconded by Mr. Milovich**, the Board unanimously approved the Pharmacy Technician and Pharmacy Technician Trainee applications listed on the attachments.

## **AGENDA ITEM 6 – Special Requests**

### **#1 Josefina Aldecoa**

**Josefina Aldecoa** appeared on her own behalf to request that the Board allow her to take the MPJE exam for the fourth time.

President Berry opened the discussion by asking Ms. Aldecoa to describe the nature of her request. Ms. Aldecoa stated that she would like to take the MPJE exam for the fourth time.

Dr. Berry asked Ms. Aldecoa about her scores. Ms. Aldecoa stated that her scores are steadily improving each time.

Dr. Berry asked Ms. Aldecoa if she has a license in another state. Ms. Aldecoa stated that she is currently practicing in Illinois. Ms. Aldecoa stated that she is in the process of moving to Arizona.

Dr. Berry asked Ms. Aldecoa what she was doing to prepare for the test. Ms. Aldecoa stated that she has reduced her workload. Ms. Aldecoa also stated that she has been reviewing the Strauss review book and has taken several online reviews.

**On motion by Mr. Van Hassel and seconded by Dr. Smidt**, the Board unanimously agreed to allow Ms. Aldecoa to take the MPJE exam a fourth time.

### **#2 Kristine Wells**

**Ms. Wells asked to cancel her appearance in front of the Board.**

### **#3 Gary Sorensen**

**Gary Sorensen** appeared on his own behalf to request that the Board terminate the suspension of his pharmacist license and impose probation per Board Order 06-0012-PHR. Lisa Yates and Jim Corrington from the PAPA program were also present.

President Berry opened the discussion by asking Mr. Sorensen to describe the nature of his request.

Mr. Sorensen stated that he would like the Board to terminate the suspension on his license and impose probation.

Dr. Berry asked Ms. Yates if PAPA supports his request. Ms. Yates stated that Mr. Sorensen has been compliant since he signed his new contract last March. Ms. Yates indicated that Mr. Sorensen is attending extra counseling sessions with Mr. Corrington.

Mr. Corrington stated that he needs to have a comfort level that an individual has accepted their diagnosis. Mr. Corrington stated that he feels Mr. Sorensen has accepted his diagnosis. Mr. Corrington stated that he meets with Mr. Sorensen once weekly during group sessions and also meets with Mr. Sorensen for individual sessions. Mr. Corrington stated that Mr. Sorensen has attended sessions at the Betty Ford clinic and Copac. Mr. Corrington stated that he has noticed a big change in Mr. Sorensen's behavior towards his recovery after he signed his new PAPA contract.

Mr. Sorensen stated that he has accepted responsibility for his diagnosis and the change in his life is to remain clean. Mr. Sorensen stated that he has a recipe for sobriety which includes attending at least three 12-step meetings a week and seeing an addiction specialist. Mr. Sorensen stated that the addiction specialist gives him Naltrexone injections to help stop his cravings.

Mr. Sorensen stated that he is currently working in the stockroom at Target and volunteers at the animal shelter.

Dr. Berry asked Mr. Sorensen why he did not appear in front of the Board last year. Mr. Sorensen stated that he had a relapse.

Ms. Yates stated that last year PAPA would not have supported his request.

Mr. Corrington stated that a participant must be clean for at least one year before he would support their request.

Mr. Corrington stated that the addiction medicine specialist is helping Mr. Sorensen to regulate his medications which helps with his mood changes.

Dr. Sypherd asked Mr. Sorensen what was the basis of his addiction. Mr. Sorensen stated that his drug of choice was narcotics.

Dr. Sypherd asked Mr. Sorensen if it would be hard to return to practice in a pharmacy. Mr. Sorensen stated that there would be accessibility to drugs in a pharmacy, but he does not see that as a problem. Mr. Sorensen stated that he could buy drugs on the street if he really wanted drugs. Mr. Sorensen stated that he feels that he is strong enough and grounded enough to handle the situation.

Mr. Corrington stated that Mr. Sorensen may want to get a job in a mail order facility initially. Mr. Corrington stated that Mr. Sorensen must acknowledge that he will be in a high risk situation when he returns to work.

Mr. Van Hassel asked Mr. Sorensen what is different in his life today. Mr. Sorensen stated that initially he was not willing to follow the steps of recovery. Mr. Sorensen stated that he would only do the minimum that was required. Mr. Sorensen stated today

he talks to his sponsor and knows what steps he must take to maintain his sobriety. Mr. Sorensen stated that he now realizes that his actions have consequences.

Ms. Galindo asked Mr. Sorensen if he has a plan if he feels tempted at work. Mr. Sorensen stated that he does have a plan. Mr. Sorensen stated that he knows communication is the key. Mr. Sorensen stated that he has a list of phone numbers to call for help. Mr. Sorensen stated that he has support from his counselor, his sponsor, his family, and other group members.

Dr. Berry asked Mr. Sorensen if he has completed any community service hours. Mr. Sorensen stated that he has completed roughly 200 hours of community service at the animal shelter.

Dr. Berry asked Ms. Campbell if the Board can place any additional restrictions on Mr. Sorensen's license, such as where he can work.

Ms. Campbell stated that based on the consent agreement Mr. Sorensen appears to be in compliance at this time and no additional restrictions could be placed on his license.

Dr. Berry asked Mr. Sorensen if he is ready to return to work. Mr. Sorensen stated that he is ready to return to work. Mr. Sorensen stated that he has learned a lot over the last two years and he knows it will work.

**On motion by Dr. Smidt and seconded by Mr. Van Hassel**, the Board unanimously agreed to terminate the suspension of Mr. Sorensen's pharmacist license and impose probation.

#### **#4 Jason Aumick**

**Jason Aumick** appeared on his own behalf to request that the Board allow him to keep his Intern license during his leave of absence from pharmacy school.

President Berry opened the discussion by asking Mr. Aumick to describe the nature of his request.

Mr. Aumick stated that he received a letter from the Board requesting that he surrender his license to the Board while he is on a leave of absence from pharmacy school.

Mr. Wand stated that he received a letter from the pharmacy school stating that Mr. Aumick had requested a leave of absence from school. Mr. Wand stated that a letter was sent requesting Mr. Aumick to surrender his Intern license to the Board during that period. Mr. Wand stated that the rules state that an Intern that quits attending school must surrender his intern license, unless the licensee requests permission from the Board to continue working as an Intern and the Board grants that request.

Dr. Berry asked Mr. Aumick why he requested a leave of absence from school. Mr. Aumick stated that his leave of absence was due to financial reasons. Mr. Aumick stated that they had also decided that he had not properly grieved the recent loss of his mother.

Mr. Aumick told the Board Members that he had completed one year of school and will return to school this August. Mr. Aumick stated that his grades were good.

**On motion by Mr. McAllister and seconded by Dr. Smidt**, the Board unanimously agreed to allow Mr. Aumick to keep his intern license and continue working as a pharmacy intern during his leave of absence from pharmacy school.

## **#5 James Green**

**James Green** appeared on his own behalf to ask the Board to amend the consent agreement that he signed and became effective October 9, 2007. Lisa Yates was also present.

President Berry asked Mr. Green to describe the nature of his request. Mr. Green stated that he has issues with the consent agreement he signed. Mr. Green stated that he is not able to find work because of the stipulations in the consent agreement. Mr. Green stated that he is not able to find work because he must work with another pharmacist and most employers will not hire him because he cannot work alone.

Mr. Green suggested the following as possible amendments to his consent in lieu of the current stipulations. Mr. Green suggested that he could do additional CE. Mr. Green suggested that the Board could increase his random urine screens. Mr. Green suggested that the Board could increase the frequency of his employer evaluations. Mr. Green stated that Dr. Pickens suggested that another member of the PAPA program could serve as a mentor.

Dr. Berry asked Mr. Green if he applied for work as an intern because his consent agreement reads that he must work as an intern for six months.

Mr. Green stated that he could not find a job as an intern or pharmacist because he could not work alone.

Dr. Smidt asked if PAPA supports this request. Ms. Yates stated that it is up to the Board to modify his consent agreement regarding his work situation. Ms. Yates stated that Mr. Green is compliant with his PAPA contract.

Ms. Campbell stated that if the Board is inclined to modify Mr. Green's consent agreement then the Board would need to offer an amended consent agreement to Mr. Green.

Mr. McAllister asked Mr. Green where he lives. Mr. Green stated that he lives in the Phoenix area. Mr. McAllister stated that he feels that there are intern positions available in the Phoenix area.

Mr. McAllister stated that he would be willing to modify Mr. Green's consent agreement to remove the intern requirement and require him to work with another pharmacist for a period of time.

Mr. Green indicated that the requirement to work with another pharmacist would impose a hardship because no employer would hire him with that stipulation.

Mr. Haiber asked Mr. Green if he was applying for intern positions or pharmacist positions. Mr. Green replied that he was applying for pharmacist positions.

**On motion by Mr. Van Hassel and seconded by Dr. Smidt**, the Board unanimously agreed to offer Mr. Green an amended consent agreement with the following terms: the Board would remove the intern requirement and allow Mr. Green to work alone as a pharmacist with Mr. Green submitting monthly reports to the Board Staff from his employer for 6 months, Mr. Green would remain on probation during this period, Mr. Green must continue compliance with his PAPA contract, and if there are any negative reports from his employer Mr. Green must appear in front of the Board. The Board authorized Mr. Wand to sign the completed consent agreement.

#### **#6 Thomas Branson**

**Thomas Branson** signed an amended consent agreement and is requesting that the Board approve the amended consent agreement.

President Berry asked Mr. Wand to address this issue.

Mr. Wand stated that as one of the stipulations of his consent agreement Mr. Branson cannot work alone. Mr. Wand stated that currently Mr. Branson is not able to find a pharmacist to travel to Ajo to work.

Mr. Wand stated that the amended consent agreement would give Mr. Branson until the May meeting to either find another pharmacist to work at the pharmacy with him or set up telecommunications that would allow a pharmacist to remotely review and verify prescriptions filled by the respondent.

**On motion by Mr. McAllister and seconded by Dr. Smidt**, the Board unanimously agreed to accept the amended consent agreement. A roll call vote was taken. (Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Milovich-aye, Mr. Haiber –aye, Mr. McAllister – aye, and President Berry –aye).

### **AGENDA ITEM 7 – License Applications Requiring Board Review**

#### **#1 Robert Vinci**

**Robert Vinci** appeared on his own behalf to request to proceed with reciprocity.

President Berry opened the discussion by asking Mr. Vinci why he was appearing in front of the Board.

Mr. Vinci stated that he is requesting permission to proceed with reciprocity via his Florida license. Mr. Vinci stated that in 2004 he surrendered his Nebraska and Colorado license. Mr. Vinci stated that he was licensed as a pharmacist in Florida in 1987.

Mr. Vinci stated that he has recently remarried and his new wife has a job in California and he has been working in Florida and commuting to California.

Dr. Berry asked Mr. Vinci why he surrendered his licenses in Nebraska and Colorado. Mr. Vinci stated that about 7 years ago he went through a very rocky divorce and was very depressed. Mr. Vinci stated that in 2004 he was caught on the job diverting narcotics. Mr. Vinci stated that he voluntarily surrendered his Nebraska license and entered a diversion program that he completed.

Mr. Vinci stated that he went into rehab in 2005. Mr. Vinci stated that he joined the PRN program in Florida and has been diligently working the program. Mr. Vinci stated that he is clean and sober. Mr. Vinci stated that the Florida PRN program requires him to submit to random urinalysis screens and yearly hair analysis.

Mr. Haiber asked Mr. Vinci if he is still licensed in Florida. Mr. Vinci replied that he is still licensed in Florida and that is his state of original licensure

Mr. Haiber asked Mr. Vinci if Florida was notified of his licensure problems in Nebraska. Mr. Vinci replied yes and the Board took no action against him. Mr. Vinci stated that he joined the Florida PRN network.

Dr. Berry asked Mr. Vinci if he would sign a PAPA agreement with the Arizona Board. Mr. Vinci stated that he would have no issues signing a PAPA agreement.

Mr. Vinci stated that he has completed 3 years of his contract in Florida and his contract would be completed in Florida in 2010.

Mr. Milovich asked Mr. Vinci if he applied for licensure in California. Mr. Vinci stated that he submitted an application in 2006 and was denied by the California Board. Mr. Vinci stated that he submitted a letter of appeal to the California Board last summer and has not received a reply to his letter.

Mr. Wand told Mr. Vinci if he signs a PAPA contract in Arizona the contract would run for five years. Mr. Vinci indicated that he did not have any issues signing a 5-year PAPA contract.

**On motion by Mr. McAllister and seconded by Mr. Milovich,** the Board unanimously agreed to allow Mr. Vinci to proceed with reciprocity and upon signing a 5-year PAPA agreement would receive his license after passing the appropriate exams.



## **#2 Robert Doherty**

**Robert Doherty** appeared on his own behalf to request approval to renew his Arizona Pharmacist license that was last renewed in 2004. The Colorado Board has recently taken action against Mr. Doherty's Colorado Pharmacist license.

President Berry opened the discussion by asking Mr. Doherty to describe the nature of his request. Mr. Doherty stated that he would like to renew his Arizona Pharmacist license.

Dr. Berry asked Mr. Doherty about his disciplinary action in Colorado. Mr. Doherty stated that he had a relapse in Colorado and entered the PEER assistance program. Mr. Doherty stated that he completed a 30 day treatment program and then violated his contract by taking Mucinex DM. Mr. Doherty stated that he is on probation in Colorado.

Mr. Doherty stated that he would like to return to Arizona. Mr. Doherty stated that he was in PAPA previously as a confidential member and completed his contract. Mr. Doherty stated that he would like to come back to Arizona and sign a new PAPA contract because he and his addictionologist feel that there would be better support for his sobriety in Arizona.

Dr. Berry asked Mr. Doherty why he left his Arizona license lapse. Mr. Doherty stated that when he moved to Colorado he did not have any intention of moving back to Arizona. Mr. Doherty stated that he feels it would be best for his recovery to move back here.

Dr. Berry asked Mr. Doherty if his CE requirements are current. Mr. Doherty stated that he is currently going through a divorce and is not sure if he can find all his CE certificates because his wife has destroyed some of his paperwork. Mr. Doherty stated that if he does not have enough credits he would complete the credits that he is missing.

Mr. Van Hassel asked Mr. Doherty if he notified the Colorado Board of his criminal actions. Mr. Doherty stated that he was charged with possession of a CII medication. Mr. Doherty stated that his lawyer was to notify the Board because he was charged of a crime while he was in treatment.

Dr. Smidt asked Mr. Doherty about his original charges. Mr. Doherty stated that he stole some CII medications from the pharmacy where he was working and resigned. Mr. Doherty stated that he was charged after he resigned. Mr. Doherty stated that he then violated his confidential contract by taking Mucinex DM.

Dr. Berry asked Mr. Doherty which state was his home state for licensure and did he notify them of the disciplinary action. Mr. Doherty stated that his home state is Michigan and he has not had time to notify them of his license issues.

**On motion by Mr. Van Hassel and seconded by Mr. McAllister**, the Board unanimously denied Mr. Doherty's request to renew his Arizona Pharmacist license. The denial was based on violations of the following statutes: A.R.S. § 32-1901.01 (B) (2) (8) (10) (16), A.R. S. § 32- 1927 (A) (1), A.R. S. § 32- 1968 (A), A.R.S. § 36- 1925

(E), A.R.S. § 13-1802 (A)(1), A.R.S. § 13-3406 (A) (1) (6), and A.R.S. § 13-3406 (B) (1) .

### **#3 Gary Ramsey**

**Gary Ramsey** spoke with the Board Members via telephone from Saipan.

President Berry opened the discussion by asking Mr. Ramsey about the nature of his request.

Mr. Ramsey stated that he would like to reinstate his Arizona Pharmacist license so that he can work as a pharmacist in Saipan.

Dr. Berry asked Mr. Ramsey if he is currently licensed as a physician in Saipan. Mr. Ramsey stated that he is currently working as a physician in Saipan.

Dr. Smidt asked why Mr. Ramsey wanted to renew his pharmacist license. Mr. Ramsey stated that they are having trouble recruiting pharmacists in Saipan and he was asked if he could renew his license to help in the hospital. Mr. Ramsey stated that he still plans on being a physician.

Mr. Ramsey stated that he did take the MPJE exam. Ms. Frush stated that Mr. Ramsey did pass the exam with an 85.

Mr. Haiber asked Mr. Ramsey if he has completed any CE units. Mr. Ramsey stated that he has completed CE units.

Mr. Milovich asked Mr. Ramsey about his disciplinary action against his medical license with the California medical board. Mr. Ramsey stated that the disciplinary action stemmed from a birthing situation at the hospital where other physicians were trying to get his privileges revoked. Mr. Ramsey stated that he is staying in Saipan and does not plan to return to California to practice medicine. Mr. Ramsey stated that the requirements of his consent order do not apply unless he goes back to practice in California.

Mr. Milovich asked Mr. Ramsey if there are any issues pending with his medical license in Saipan. Mr. Ramsey stated that there are no issues with his license. Mr. Ramsey stated that he can obtain a letter from the hospital administration if the Board would like.

Dr. Berry asked Mr. Ramsey if he tried to reinstate his license in 2002. Mr. Ramsey stated that he may have inquired about reinstating his license, but did not pursue reinstating his license at that time.

**On motion by Dr. Smidt and seconded by Mr. McAllister**, the Board unanimously agreed to accept Mr. Ramsey's application to reinstate his expired Pharmacist license.

#### **#4 Adil Mirza**

President Berry opened the discussion by stating that Mr. Mirza's request to reciprocate his license was tabled at the last meeting. Dr. Berry stated that the Board did receive the Loss Prevention Report from Walgreens indicating that Mr. Mirza did divert controlled substances from Walgreens. Dr. Berry stated in the report that Mr. Mirza admitted in his written statement that he did steal the medications from Walgreens and sold the medications.

Dr. Berry stated that Mr. Mirza has written a letter to the Board requesting to withdraw his request to reciprocate his Pharmacist license to Arizona.

Ms. Campbell stated that it is the Board's decision if they want to allow Mr. Mirza to withdraw his application or continue to process the application. Ms. Campbell stated that if the Board denies Mr. Mirza's request the Board should notify the Florida and Illinois Board of their actions.

**On motion by Mr. Van Hassel and Dr. Smidt**, the Board unanimously agreed to deny Mr. Mirza's request to withdraw his application and denied Mr. Mirza's request to reciprocate his Pharmacist license to Arizona. The denial was based on violations of the following statutes: A.R.S. § 32-1901.01 (B) (2) (10) (11) (18), A.R. S. § 32- 1927 (A) (1), A.R. S. § 32- 1968 (A), A.R.S. § 36- 1925 (E), A.R.S. § 32- 1802 (A)(1), and A.R.S. § 13-3406 (A) (1) (6), and A.R.S. § 13-3406 (B) (1) .

#### **AGENDA ITEM 8 – Overview of McKesson Patient Outreach Network Program- Counseling on Prescriptions filled at other pharmacies.**

Chief Pharmacy Officer Steven Hoffman and Roger Morris were present to give an overview of the McKesson Patient Outreach Network Program.

Mr. Hoffman explained that McKesson has implemented a franchise called Healthmart which consists of 1,800 pharmacies across the country. Mr. Hoffman stated that the pharmacies would be participating in an additional counseling process.

Mr. Hoffman stated when a pharmacy fills a prescription the third party processor would identify the claims as a chance for additional intervention and message the pharmacist. If the patient agrees to the additional counseling, a dummy prescription claim would be created for intervention purposes. Mr. Hoffman stated that a number would be created and then there would be holes in the sequential numbering. Mr. Hoffman stated that Arizona requires that the prescriptions be filed sequentially.

Mr. Milovich asked why they could not reverse and rebill on the same prescription number. Mr. Hoffman stated that there are many different systems and not all systems are capable of rebilling.

Mr. Haiber asked what would show in the system. Mr. Hoffman stated that a claim would show for counseling.

Mr. Wand asked if the pharmacies should be asking for a waiver because it would be the pharmacies that are not in compliance. Mr. Morris stated that it is a claim issue and they are trying to prevent each pharmacy from asking for a waiver.

Dr. Berry asked if there is a tracking system. Mr. Morris stated that it would be captured in the system.

Ms. Campbell stated that a waiver could only be granted for experimental or technological advancement.

**On motion by Mr. Van Hassel and seconded by Mr. Haiber**, a motion was placed on the floor that the Board approve the waiver for McKesson based on experimental or technological advancement.

The Board Members then decided that the tracking in the system would allow the Compliance Officers to know when a number was used for counseling purposes.

**Mr. Van Hassel and Mr. Haiber** withdrew their motion.

## **AGENDA ITEM 9 – Reports**

### **Executive Director Report**

#### **Budget Issues**

Mr. Wand opened the discussion by reviewing the financial reports with the Board Members.

Mr. Wand stated that the February expenses are larger than usual because there were three pay periods in February, the rent for the year was paid, and the University of Arizona payment was made.

Mr. Wand stated that the House and Senate had proposed bills to sweep funds from agency reserve funds. Mr. Wand stated that both bills were vetoed by the governor.

#### **Staffing**

Mr. Wand stated that the Governor had ordered a hiring freeze for state agencies. Mr. Wand stated as a result of the hiring freeze the Board is not able fill the Compliance Officer position at this time. Mr. Wand stated that the staff is concentrating on completing complaints and inspecting pharmacies that have not been inspected recently. Mr. Wand stated that currently there is a temporary receptionist in the office and he cannot hire that position until the hiring freeze is over.

Dr. Smidt asked if the Board could use self-inspections for pharmacies. Mr. Wand stated in the early 90's the Board tried self inspections but the process died.

Mr. Wand stated that the Board has been invited to a dedication of the New College of Pharmacy in April. Mr. Wand stated that the dedication would need to be posted as a regular board meeting.

Mr. Wand stated that the University of Arizona would be donating the museum pieces to the Board in May.

### **Deputy Director Report**

Ms. Frush reviewed the Compliance Officers Activity Report for the months of January and February with the Board Members. Ms. Frush reviewed the Drug Inspectors Activity Report for the months of January and February with the Board Members.

During the months of January and February 2008, the Compliance Staff issued letters for the following violations:

#### **Controlled Substance Violations**

1. Controlled Substance Overage – 9
2. Controlled Substance Shortage – 4
3. Controlled Substance Inventory not taken at change of Pharmacist in Charge – 1
4. Controlled Substance Inventory incomplete – 2
5. CII Prescriptions not filed separately – 1

#### **Documentation Violations**

1. Failure to Document Medical Conditions – 3
2. Failure to sign daily log - 1
3. Failure to document counseling - 4
4. Failure to have required technician statements signed – 2

#### **Dispensing Violations**

1. Outdated Rx and OTC items in the pharmacy – 1

#### **Pharmacy Violations**

1. Wall certificates not posted – 1
2. Allowing technician to work with an expired license - 3

The following areas were noted on the inspection reports for improvement:

1. Documentation of Counseling
2. Filing of controlled substance invoices

The following areas were noted on the inspection reports where pharmacists and technicians are meeting or exceeding standards:

1. Cleanliness of pharmacies

Areas outside the inspection reports that may be of interest:

1. Permittees must report acts of unprofessional conduct to the Board in writing.
2. If another prescription appears on the same prescription blank with a CII prescription, the other prescription can be written on another blank and referenced to the CII.

## **Pharmacist Assisting Pharmacists of Arizona (PAPA)**

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of forty (40) participants in the PAPA program. Since the last report on January 23, 2008 there has been one (1) new participant come into the program and there was one (1) termination of contract.

Ms. Yates stated that PAPA will be sponsoring a CE program on April 6, 2008 at the Sheraton Phoenix Airport Hotel. Ms. Yates stated that Kristen Polin will be presenting the “Latest Trends with Street Drugs and OTC Medications”. Ms. Yates stated that this is the same CE program that was presented at the AzPA Convention in Tucson last July.

Ms. Yates stated that she has had three pharmacy technicians call her for information about the program. Ms. Yates stated that only one technician has entered the program. Ms. Yates stated that most technicians do not want to do the extensive outpatient program.

Mr. Haiber asked Ms. Yates about the cost of the program. Ms. Yates stated that the pharmacists pay \$125.00 a month for counseling and the urine screens are \$40.00 a month. Ms. Yates stated that the counseling rates for interns and technicians are set at \$50.00. Ms. Yates stated that they cannot reduce the rates for the urine screens and the fee must be paid to the lab at the time of testing.

The Board Members discussed possible concerns with Ms. Yates.

## **AzPA Report**

Mindy Rasmussen, Executive Director of the Arizona Pharmacy Alliance (AzPA), was present to update the Board concerning the activities of the Alliance.

Ms. Rasmussen reviewed the various academies of the Alliance and their upcoming events.

Ms. Rasmussen stated that the annual meeting would be held at the Biltmore in Phoenix . The scheduled dates are July 10-13, 2008.

Ms. Rasmussen stated that 200 students participated in Legislative Day on March 10, 2008.

Ms. Rasmussen discussed various bills that the Alliance was supporting this legislative session.

Ms. Rasmussen discussed the diabetes program in which their “for profit” division is participating.

Ms. Rasmussen stated that she is participating in developing the rules for the Continuous Quality Assurance Committee.

## **AGENDA ITEM 10– Conferences**

### **Complaint #3446**

**President Berry recused herself due to a conflict of interest. Vice President McAllister presided over this conference.**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Keith Lowrie (Pharmacist), Luz Valenzuela (Pharmacy Technician), and Nicole Schickel (Pharmacy Supervisor).

Compliance Officer Ed Hunter gave a brief overview. Mr. Hunter stated that the complainant stated that a prescription for her daughter for Bactrim was filled incorrectly. The prescription was written for Septra with the directions 120mg twice daily for 10 days. The quantity dispensed was 60cc. The child's mother stated that she thought the directions should have been 3 cc twice daily instead of three teaspoonfuls. The complainant stated that she called the pharmacy and someone apologized for the error and stated that it should have been for 3cc. No one at the pharmacy remembers speaking to the complainant. The major issue is that only 60 cc was dispensed. There is no documentation in the pharmacy that counseling was performed or refused.

Vice President McAllister asked Mr. Lowrie to address the issue. Mr. Lowrie stated that he was the pharmacist in charge of verifying the prescription. Mr. Lowrie stated that a graduate intern was at the register and it is customary for the graduate intern to counsel the patient. Mr. Lowrie stated that often the intern would forget to document that counseling occurred.

Mr. McAllister asked Mr. Lowrie if he is supervising the intern while counseling is being performed. Mr. Lowrie stated that the intern is being supervised by him and the intern may have forgotten to document the counseling that they performed.

Mr. McAllister asked Mr. Lowrie if the prescription was phoned in or was the prescription brought in by the patient. Mr. Lowrie stated that the prescription was written by the doctor and brought to the pharmacy.

Mr. McAllister asked Mr. Lowrie if he questioned the dose. Mr. Lowrie stated that he did not question the dose because the prescription was entered correctly except for the quantity which he missed.

Mr. Milovich asked Mr. Lowrie about the counseling log. Mr. Lowrie stated that he does not sign every line but signs his name down the side of the form if he is the only pharmacist present.

Mr. Milovich stated that some of the lines are signed and others are not signed at all. Mr. Lowrie stated that they are currently signing each line.

Dr. Smidt asked Mr. Lowrie if someone other than a pharmacist puts the X in the accept or refuse spot. Mr. Lowrie stated that a technician may put the X in the refuse spot if the patient leaves with the prescription.

Mr. McAllister asked Ms. Valenzuela if she entered the prescription. Ms. Valenzuela stated that she entered the prescription.

Mr. McAllister asked Ms. Valenzuela how she calculated the days supply. Ms. Valenzuela stated that she has only been a technician for a year and asked a fellow technician to help her calculate the days supply. Ms. Valenzuela stated that she should have asked the pharmacist for help. Ms. Valenzuela stated that when she has any doubts she now asks the pharmacist for help.

Mr. Haiber asked if there is a low dose check. Ms. Schickel stated that she does not know if there is a low dose check in the computer system.

Mr. Lowrie stated that a low dose alert would not have shown up because the prescription dosage was entered correctly.

Mr. Haiber asked Ms. Schickel to explain the counseling documentation process and if the supervisors review the process at the stores. Ms. Schickel stated that the supervisors do audit the counseling logs when they visit the pharmacies. Ms. Schickel stated that after the patient pays for the prescription the technician walks the prescription to the window where the pharmacist performs counseling and tells the patient that the pharmacist will release their medication to them. Ms. Schickel stated that the technician writes the prescription numbers on the log and the pharmacist that performs the counseling signs the log.

Mr. Haiber asked where the policy is documented. Ms. Schickel stated that she can obtain a copy of the policy.

Mr. Haiber stated that the policy is not being followed because the counseling documentation is not consistent.

Dr. Smidt asked Mr. Lowrie who asks the patient about counseling. Mr. Lowrie stated that the prescription is moved to the counseling window and counseling occurs at that window.

Mr. Wand asked Mr. Lowrie if there could have been a shortage of the medication. Mr. Lowrie stated that he was not sure because the computer system does have a provision where a shortage would be documented.

Mr. Wand asked if the days supply is available to the counseling person. Mr. Lowrie stated that he does not believe that the days supply is on the label.

Mr. McAllister reminded Mr. Lowrie to talk to his patients and errors of this type would be caught during counseling.



**On motion by Mr. Van Hassel and seconded by Dr. Smidt**, the Board unanimously agreed to dismiss the complaint.

### **Complaint #3453**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Gary Bachmeier (Pharmacist), Julie Burke (Pharmacy Technician), and Craig Yee (Pharmacy Supervisor). Cassandra Meyer was present as legal counsel for Costco and Mr. Bachmeier.

Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint. Ms. Sutcliffe stated that the complainant received Lorazepam 1mg instead of Clonazepam 1mg. The complainant took the medication for 10 to 14 days before the error was discovered. The patient reported that she suffered side effects from taking the wrong medication. It could not be determined if counseling occurred or was refused because in 2006 the pharmacy was utilizing an electronic entry at the cash register to record counseling and the pharmacy has not been able to provide those records.

President Berry asked Mr. Bachmeier if he was the pharmacist that filled the prescription and provided counseling. Mr. Bachmeier stated that he filled the prescription but the counseling data has been purged from the system.

Dr. Berry asked Ms. Burke if she entered the prescription incorrectly. Ms. Burke stated that she missed the "C" and typed in lorazepam.

Dr. Berry asked Mr. Bachmeier if the image is scanned. Mr. Bachmeier stated that he uses the hard copy prescription to verify the prescription. Mr. Bachmeier believes that he read the label first and when he read the prescription he read the drug as lorazepam.

Dr. Berry asked if counseling was performed. Mr. Yee stated that there is a signature on file showing counseling was performed.

Dr. Berry asked Mr. Bachmeier if he had the hard copy of the prescription during counseling. Mr. Bachmeier stated that he does not have the hard copy. Mr. Bachmeier stated that he has the medication bottle and counsels from the label on the bottle.

Mr. Milovich asked Mr. Bachmeier if he takes the medication out of the bag when counseling the patient. Mr. Bachmeier stated that the technician takes the medication out of the bag and he shows the patient each bottle as he tells them about their medication.

Mr. Haiber asked when the DUR alert appears on the screen. Mr. Bachmeier stated that the alert appears when the technician enters the prescription and the technician prints the alert for the pharmacist. Mr. Yee stated that the alert also shows up on the verification screen.

Dr. Berry asked Ms. Burke to describe the counseling policy. Ms. Burke stated that when a new prescription requires counseling that she takes the prescription to a separate counseling window and takes the drugs of the bag and places them beside the bag for the

pharmacist. Mr. Bachmeier stated that he then signs off on the label when counseling is complete.

Mr. Haiber asked Mr. Bachmeier if there was a computer terminal close to where he counsels the patient. Mr. Bachmeier stated that there is not a terminal close to the window.

Mr. Haiber asked Mr. Bachmeier if viewing the prescription would have helped him catch the error. Mr. Bachmeier stated that it probably would help catch errors during counseling.

Dr. Berry asked if they had used a different brand of Clonazepam since the patient had the drug previously. Mr. Bachmeier stated that they have always used the same brand of Clonazepam and the tablets have not changed.

Mr. Wand stated that the complaint was sent to the Board after legal action had been taken and the complaint had actually occurred in 2006.

**On motion by Mr. Milovich and seconded by Mr. Haiber,** the Board agreed to dismiss the complaint. There was one nay vote by Mr. Van Hassel.

### **Complaint #3456**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Jeffrey Schwartz (Pharmacist), Julie DiNovo (Pharmacy Technician), and Roy Lacey (Pharmacy Supervisor).

Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint. Ms. Sutcliffe stated that a prescription for the patient was filled incorrectly. The patient's prescription for Requip 0.5 mg with directions to take 3 tablets at bedtime was filled with Requip 5.0 mg with directions to take 3 tablets at bedtime. The patient had received Requip 0.5 mg from a telephone prescription a few days prior to the dispensing of the original hard copy. During the complaint investigation, it was determined that the pharmacist had overridden the duplicate therapy warnings.

President Berry opened the discussion by asking Ms. DiNovo how the script is processed. Ms. DiNovo stated that the prescription is imaged and will appear on her screen. Ms. DiNovo stated that she enters the prescription and does a nine point screen check. Ms. DiNovo stated that she entered the prescription incorrectly.

President Berry asked Mr. Schwartz to address the error. Mr. Schwartz stated that an image of the prescription and the data that was entered appears on the screen. Mr. Schwartz stated that the image was clear and easy to see. Mr. Schwartz stated that he did do a high dose override. Mr. Schwartz stated that 20 mg is a maximum dose per day and the prescription did not exceed the maximum dose. Mr. Schwartz stated that he failed to check the patient's history because the patient had 0.5 mg in her profile.

Mr. Schwartz stated that he has completed CE on error prevention. Mr. Schwartz stated that he did research on look-alike sound-alike drugs and drugs with similar strengths.

Mr. Schwartz stated that he does not screen prescriptions anymore and has switched to the dispensing area.

Mr. Milovich asked Mr. Schwartz how many prescriptions he screened per hour. Mr. Schwartz stated that he was screening about 100 prescriptions per hour. Mr. Schwartz stated that he was told to slow down because he was going too fast and he was not implementing all the procedures.

Mr. Milovich asked Mr. Schwartz how many prescriptions Humana expects each pharmacist to screen per hour. Mr. Schwartz stated that there is no limit. Mr. Lacey stated that the average number of prescriptions screened per hour is 50 and Humana expects 40 prescriptions per hour.

Dr. Smidt asked Mr. Lacey if pharmacists are verifying more than 40 prescriptions an hour are they told to slow down. Mr. Lacey stated that accuracy is important. Mr. Lacey stated that if they see a large error rate, the individual is talked to and told to focus on the quality of their work.

Mr. Haiber asked Mr. Schwartz how many hours he was working a day. Mr. Schwartz stated that he was working 8 hours a day when the error occurred. Mr. Schwartz stated that with overtime he is now working 10 to 12 hours in the dispensing area.

Mr. Haiber asked Mr. Schwartz why he would override a duplicate therapy alert. Mr. Schwartz stated that there are a lot of overrides for duplicate therapy if the patient has had the medication anytime in the past. Mr. Schwartz stated that he tended to go a little fast when he viewed duplicate therapy overrides.

Mr. Milovich asked Mr. Lacey if there are incentives based on production. Mr. Lacey replied no.

Dr. Smidt asked Mr. Schwartz how many screens were overridden. Mr. Schwartz indicated that he overrode the duplicate therapy screen.

Dr. Smidt asked Mr. Schwartz if a dosing alert appeared on the screen. Mr. Schwartz stated that he overrode the dose alert because it did not exceed the maximum daily dosing.

**On motion by Dr. Smidt and seconded by Mr. Van Hassel**, a motion was placed on the floor to offer Mr. Schwartz a consent agreement and fine him \$1,000 for each screen that he overrode. (2 screens for a total fine of \$2,000)

Mr. McAllister stated that he does not agree with the fine.

A roll call vote was taken. (Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa – aye, Mr. Milovich – nay, Mr. Haiber – nay, Mr. McAllister – nay, and President Berry – nay). The motion failed.

**On motion by Mr. Haiber and seconded by Mr. McAllister**, a motion was placed on the floor to issue an advisory letter to Mr. Schwartz and send a copy to the permit holder. A roll call vote was taken. (Mr. Van Hassel – nay, Ms. Galindo – aye, Dr. Smidt – nay, Ms. Honeyestewa – nay, Mr. Milovich – aye, Mr. Haiber –aye, Mr. McAllister – aye, and President Berry – aye). The motion carries.

Ms. Campbell stated that since Ms. DiNovo’s license has been revoked by the Board the Board can close the complaint and place a copy of the complaint in her file.

### **Complaint #3457**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Harold Bray (Pharmacist), Stephanie Etgen (Pharmacy Technician), and Lee Ellershaw (Pharmacy Supervisor). Ken Baker was present as Legal Counsel for Mr. Bray.

Compliance Officer Sandra Sutcliffe gave a brief overview of the complaint. Ms. Sutcliffe stated that the complainant stated that she received a blood pressure medication (Amlodipine 5 mg) instead of Alprazolam 0.5 mg. The complainant stated that she took 2 doses of the incorrect medication. The pharmacist stated that two prescriptions were processed that day for the patient. The prescriptions were for Alprazolam and Metoprolol. The prescriptions were entered and filled by the technician. The pharmacist stated that he did not use the scanner to verify the correct drug was being dispensed.

President Berry asked Mr. Bray to address the complaint. Mr. Bray stated that he did not catch the error when he checked the prescription.

Dr. Berry asked if he counseled the patient. Mr. Bray stated that the prescriptions were refills.

Mr. Milovich asked Mr. Bray if he was a floater pharmacist. Mr. Bray replied yes.

Mr. Milovich asked Mr. Bray if there was any conversation between him and the other pharmacist when he came into work that afternoon. Mr. Bray stated no that the other pharmacist left.

Mr. Milovich asked Mr. Bray if he made the assumption that the prescriptions were already scanned. Mr. Bray stated that he assumed the prescription had been scanned because he assumed that this was the procedure.

Mr. Haiber asked if scanning occurs at the fill station. Mr. Bray stated in most cases. Mr. Ellershaw stated that policy states that scanning occurs at the filling station.

Mr. Haiber asked Mr. Ellershaw if the supervisors perform audits to determine if the scanning policy is followed. Mr. Ellershaw stated that they receive information weekly that indicate the number of scans that were performed. Mr. Ellershaw stated that the report is typically over 100% because a prescription can be scanned more than once.

Mr. Haiber asked what would happen if the stores do not follow procedures. Mr. Ellershaw stated that would result as a breakdown in communication and the policies would be reviewed with the store. Mr. Bray stated that the prescription could also be scanned at verification by the pharmacist.

Dr. Smidt asked if the stock bottle remains with the prescription until it is checked by the pharmacist. Mr. Ellershaw and Mr. Bray both indicated that the bottle stays with the prescription until completed.

**On motion by Mr. McAllister and seconded by Dr. Smidt**, the Board unanimously agreed to dismiss the complaint.

### **Complaint #3477**

The following individual was present to answer questions from Board Members concerning a consumer complaint: Joseph Chen (Pharmacist).

Compliance Officer Ed Hunter gave a brief overview. Mr. Hunter stated that the complainant a pharmacy technician student doing a rotation at the pharmacy was told to use expired chemicals when compounding medications. Mr. Hunter stated that he found 30 expired medications during his investigation. Mr. Hunter stated that the pharmacist was failing to keep up with pulling outdated items both in the conventional medication area and the compounding area. The pharmacist stated that the pharmacy was too busy to pay much attention to the expiration dates when compounding.

President Berry asked Mr. Chen to address the complaint. Mr. Chen stated that the technician was a student at Pima College and worked for him for 3 months. After completing his schooling, Mr. Chen stated that he hired the technician. Mr. Chen stated that when he cut the technician's hours he applied for a job elsewhere and filed the complaint.

Dr. Berry asked Mr. Chen to address the expired medications. Mr. Chen stated that Mr. Hunter did find expired items in the pharmacy. Mr. Chen stated that 13 items were products that the patient did not pick up and he did not dispose of them. Mr. Chen stated that the items were just sitting on the shelf.

Dr. Berry stated that the expired items should not be on the shelf. Mr. Chen replied that he sends the expired items back yearly in July.

Dr. Berry asked Mr. Chen if he has items that expired on the shelf. Mr. Chen stated that it was an oversight. Mr. Chen stated that the compounding area is way in back of the pharmacy. Mr. Chen indicated that he only compounds about 5 or 6 prescriptions daily.

Dr. Berry asked Mr. Hunter where the expired items were found during his inspection. Mr. Hunter stated that they were found on the shelf with other products for compounding that were still in date.

Mr. Milovich asked Mr. Chen if this was the first time that he was notified about outdated medications on his shelf. Mr. Chen stated that Mr. Hunter will pick out the outdated products on his shelf when he comes for an inspection.

Mr. Milovich asked Mr. Chen if this is the first time that he has been written up for outdated medications. Mr. Chen stated that this is the first time.

Dr. Berry asked Mr. Hunter if that was a true statement that this was the first time Mr. Chen was written up for outdated products. Mr. Hunter stated that Mr. Chen has outdated products each year and it is noted on his inspection reports as an area that needs improvement. Mr. Hunter stated that he does not usually have enough outdates to issue a violation letter.

**On motion by Mr. McAllister and seconded by Mr. Van Hassel**, a motion was placed on the floor to proceed to Formal Hearing.

Dr. Smidt stated that he would be inclined to offer a consent agreement to Mr. Chen before proceeding to hearing.

Mr. Haiber asked Mr. Chen if he told the technician to use the expired product. Mr. Chen stated that he did not intentionally use expired products.

Mr. Haiber stated that the technician stated that he alerted Mr. Chen that the product was expired and he was told to use the product anyway. Mr. Chen stated that he did not intentionally use the product. Mr. Chen stated that he is not in the habit of looking at the expiration date. Mr. Chen stated that he may compound about 3 to 5 prescriptions daily. Mr. Chen stated that he may use an outdated binder if the patient is waiting.

Dr. Berry asked Mr. Chen if he is the only pharmacist at the pharmacy. Mr. Chen stated that he has two part-time pharmacists.

Dr. Berry asked Mr. Chen if the other pharmacists check for outdates. Mr. Hunter stated that the other two pharmacists do not compound. Mr. Hunter stated that only Mr. Chen compounds.

Mr. Haiber asked Mr. Chen if it was only a small amount would he use an outdated chemical. Mr. Chen replied yes.

Dr. Smidt asked Mr. Chen if he knows why the Board is asking him these questions. Mr. Chen replied yes. Mr. Chen stated that he does recognize that he needs to send expired medications back to the pharmaceutical services. Mr. Chen stated that in the future he would discard all expired medications.

Mr. Chen stated that the technicians would check the aisles for outdates quarterly and pull expired medications.

Dr. Berry told Mr. Chen that checking for outdates and using expired medications are two different issues.

**Mr. McAllister and Mr. Van Hassel** withdrew their original motion

**On motion by Mr. McAllister and Mr. Van Hassell**, the Board unanimously agreed to offer a consent agreement to Mr. Chen with the following terms: 1 year probation, a \$1,000 fine for each of the 30 items (total fine of \$30,000), and one extra inspection at his expense. If Mr. Chen does not sign the consent, then the case would proceed to hearing. A roll call vote was taken. (Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa – aye, Mr. Milovich – aye, Mr. Haiber – aye, Mr. McAllister – aye, and President Berry – aye).

### **Complaint #3480**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Jennifer Mullis (Pharmacist), Kamal Walia (Pharmacy Technician), and Hahn Nyguen (Pharmacy Supervisor). Roger Morris was present as Legal Counsel.

Compliance Officer Rich Cieslinski gave a brief overview. Mr. Cieslinski stated that the complainant stated that her daughter's prescription for Benadryl was filled incorrectly. The complainant stated that the directions on the bottle were to "Take 12.5 ml by mouth four times daily. The complainant stated that the directions on the bottle should have read to take 12.5 mg (5ml) by mouth four times daily. The pharmacist did not catch the dosing error either time she verified the prescription. The pharmacist stated that counseling was not performed. There was no documentation that counseling was performed. The complainant, a nurse, caught the error and did not give the medication to her child.

Dr. Berry asked Ms. Walia to walk her through the prescription process. Mr. Walia stated that she entered the prescription for ml instead of mg.

Dr. Berry asked where the DUR alert appears. Ms. Walia stated that it does not appear on the technician screen. Ms. Mullis stated that if a warning appeared it would appear on the pharmacist's screen. Mr. Nyguen stated that there was probably not an excessive dosage warning because the dose was not an excessive overdose.

Mr. Morris stated that Ms. Mullis has completed 12 hours of CE on medication errors. Ms. Mullis stated that counseling documentation has changed.

Mr. Van Hassel asked if they usually fill non-prescriptions items as prescriptions. Ms. Mullis stated not on a regular basis. Mr. Nyguen stated that some insurance carriers will cover non-prescription items if they are filled on a prescription.

Dr. Berry asked Ms. Mullis if the mother refused counseling. Ms. Mullis replied yes. Mr. Cieslinski stated that the mother told him that she refused counseling because she knew how to use the medications.

Mr. Haiber asked if an incident report was filed. Mr. Nguyen stated that an incident report was filed. Mr. Nguyen stated that a report is filed when every an error occurs and it is a report for internal use. Mr. Nguyen stated that they checked no because they are not able to print a copy of the report.

**On motion by Dr. Smidt and seconded by Mr. Haiber**, the Board agreed to issue an advisory letter to both the Pharmacist and Pharmacy Technician. There was one nay vote by Dr. Berry.

### **AGENDA ITEM 11 - Consideration of Complaints on Schedule “E” and Consideration of Consumer Complaint Committee Recommendations**

The Consumer Complaint Review Committee met prior to the Board Meeting to review 9 complaints. Dr. Berry, Ms. Honeyestewa, and Dr. Sypherd served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

**On motion by Mr. McAllister and seconded by Mr. Haiber**, the Board unanimously accepted the recommendations of the Consumer Complaint Review Committee.

The following summary represents the discussion and final decisions of the Board for each complaint:

Complaint #3471	-	Dismiss
Complaint #3485	-	Dismiss
Complaint #3487	-	Dismiss
Complaint #3492	-	Advisory Letter to Pharmacist and Pharmacy Technician
Complaint #3494	-	Dismiss
Complaint #3495	-	Advisory Letter to Pharmacist and Pharmacy Technician with a copy sent to the Pharmacist In Charge
Complaint #3496	-	Consent Agreement for PAPA. If not signed, the case would proceed to hearing.
Complaint #3497	-	Consent Agreement the mimics actions taken by the Missouri Board. If not signed, the case would proceed to hearing.
Complaint #3499	-	Consent Agreement drafted by the Executive Director and Assistant Attorney General that is Consistent with the recommendations made by the



two practitioners. The Consent would place the pharmacist's license on suspension until approval is received from a an approved provider that he is safe to return to practice. If the agreement is not signed, the case would proceed to hearing.

#### **AGENDA ITEM 24 – Call to the Public**

President Berry announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

No one came forth.

The Board recessed for the day.

#### **AGENDA ITEM 1 – Call to Order – March 20, 2008**

President Berry convened the meeting at 9:00 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Zina Berry, Vice President Dennis McAllister, Joanne Galindo, Steven Haiber, Louanne Honeyestewa, Dan Milovich, Ridge Smidt, and Tom Van Hassel. The following staff members were present: Compliance Officers Rich Cieslinski, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

#### **AGENDA ITEM 12 – Consent Agreements**

President Berry asked Board Members if there were any questions or discussions concerning the consent agreements. Executive Director Hal Wand indicated that the consent agreements have been reviewed and approved by the Attorney General's Office and have been signed.

**On motion by Dr. Smidt and seconded by Mr. Milovich**, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below. A roll call vote was taken. . (Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa – aye, Mr. Milovich-aye, Mr. Haiber –aye, Mr. McAllister – aye, and President Berry – aye).

Jamie Logsdon - 08-0015-PHR

David Martinez - 08-0020-PHR

Christina Martinez	-	08-0028-PHR
Stephanie Underhill	-	08-0029-PHR
Rosalie Canaya	-	08-0032-PHR
John Bacovcin	-	08-0035-PHR

**On motion by Mr. McAllister and seconded by Mr. Van Hassel**, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below. A roll call vote was taken. . (Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Milovich-aye, Mr. McAllister – aye, and President Berry – aye). Mr. Haiber was recused due to a conflict of interest.

Eric Kesterson	-	08-0017-PHR
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**On motion by Dr. Smidt and seconded by Mr. Haiber**, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below. A roll call vote was taken. (Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber –aye, Mr. McAllister – aye, and President Berry –aye). Mr. Milovich was recused due to a conflict of interest.

Payal Makadia	-	08-0022-PHR
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**On motion by Dr. Smidt and seconded by Ms. Honeyestewa**, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below. A roll call vote was taken. . (Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa – aye, Mr. Milovich-aye, Mr. Haiber –aye, and President Berry –aye). Mr. McAllister was recused due to a conflict of interest.

George Newman	-	08-0033-PHR
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**On motion by Dr. Smidt and seconded by Mr. Milovich**, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below. A roll call vote was taken. . (Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Milovich-aye, Mr. Haiber –aye, Mr. McAllister – aye, and President Berry –aye). Mr. Van Hassel was recused due to a conflict of interest.

Korman Healthcare (Formerly Phoenix Long Term Care Pharmacy)	-	08-0019-PHR
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**On motion by Dr. McAllister and seconded by Mr. Haiber**, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and

signed by the respondents. The consent agreements are listed below. A roll call vote was taken. . (Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Milovich-aye, Mr. Haiber –aye, Mr. McAllister – aye, and President Berry –aye). Mr. Van Hassel was recused due to a conflict of interest.

Korman Healthcare

- 08-0021-PHR

### **AGENDA ITEM 13 – Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure**

President Berry addressed this issue. Dr. Berry stated that Mr. Wand has reviewed the requests.

Mr. Wand stated that beginning in May this year there will be some pharmacy technician trainees that have not passed the test to become certified and will no longer be able to work as pharmacy technician trainees. Mr. Wand stated that the statutes only allow them to reapply for licensure one time for a total of 4 years.

**On motion by Mr. Van Hassel and seconded by Mr. McAllister**, the Board unanimously approved the requests of the Pharmacy Technician Trainees listed below to proceed with the reapplication process. The pharmacy technician trainee may reapply for an additional two years as a pharmacy technician trainee one time.

#### **Pharmacy Technician Trainees Approved to reapply for licensure as a Pharmacy Technician Trainee for an additional two years.**

- |                        |                       |
|------------------------|-----------------------|
| 1. Roger Martinez      | 25. Asrat Hailemariam |
| 2. Robert Mariona      | 26. Eva Garcia        |
| 3. Emily Hein          | 27. Kevin Pinto       |
| 4. Stella Herrera      | 28. Jenny Kagi        |
| 5. Judith Smith        | 29. Aja Jackson       |
| 6. Manuel Urrutia      | 30. Dawn Cuny         |
| 7. Lenae Sigmund       | 31. Elizabeth Johnson |
| 8. Elijo Villa         | 32. Krista Pickard    |
| 9. Letitia Jenkins     | 33. Chandra Heinold   |
| 10. Madiha Sultana     | 34. Darla Skelton     |
| 11. Leigh Hayes        | 35. Farnaz Ardebili   |
| 12. Lionel Nez         | 36. Shaunna Nelson    |
| 13. Paulita Loera      | 37. Larenda Reece-Cox |
| 14. Babu Patel         | 38. Tara Cranston     |
| 15. Kevyn Herrera      | 39. Tashina Bellamy   |
| 16. Daniel Lawler      | 40. Krista Pohlman    |
| 17. Ashlee Westover    | 41. Edward Vient      |
| 18. Linda Williams     | 42. Delia Torres      |
| 19. Shaun Badal        | 43. Omar Valadez      |
| 20. Concepcion Ahumada | 44. Nancy Harmes      |
| 21. Brianna Gilmore    | 45. Veronica Myers    |
| 22. Wesley Montgomery  | 46. Grace Gregory     |
| 23. Charmayne Yazzie   | 47. Jessica Reyes     |
| 24. Joslyn Drew        | 48. Carolina Garcia   |

- |     |                   |     |                        |
|-----|-------------------|-----|------------------------|
| 49. | Candace Seely     | 65. | Margaret Griffiths     |
| 50. | Barbara Jones     | 66. | Sean Russell           |
| 51. | Donna Harvest     | 67. | Susely Azurdia         |
| 52. | Blanca Pena       | 68. | Jennifer McCormack     |
| 53. | Matthew Horstman  | 69. | Rachel Howard          |
| 54. | Zyrine Calucer    | 70. | Kimberly Alling        |
| 55. | Kelly Gomez       | 71. | Heather Eisen          |
| 56. | Rebecca Larson    | 72. | Melissa Hollenbeck     |
| 57. | Dominique Monaco  | 73. | Zachary Boyle          |
| 58. | Elizabeth Mendoza | 74. | Asuncion Alegre        |
| 59. | Charlyn Dominguez | 75. | Hermine Piwarchuck     |
| 60. | Jose Esquerro     | 76. | Aralynn Harrison       |
| 61. | Anna Najarro      | 77. | Todd Hayden            |
| 62. | Ginger Goodwin    | 78. | Jose Gaytan            |
| 63. | Leticia Ramirez   | 79. | Cindy Ortega-Underwood |
| 64. | Amanda Falusi     | 80. | Melissa Hanlon         |

## **AGENDA ITEM 14 – Proposed Rules**

### **Intern Pictures and Recordkeeping Rules**

Rules Writer Dean Wright opened the discussion by stating that A.R.S § 32-1984 specifies that distributors and purchasers of prescription-only drugs must establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of prescription-only drugs for at least three years. Mr. Wright indicated that the following sections only require the records to be maintained for two years: R4-23-601, R4-23-613, and R4-23-1003. Mr. Wright stated that to be consistent with the statutes the rules would be amended to replace the two-year record retention requirement with a three-year record retention requirement.

Mr. Wright stated that the Board staff has determined that with the present National Association Boards of Pharmacy (NABP) licensure process, it is not necessary to have an intern provide a recent photograph with their application for licensure. The photograph requirement specified in R4-23301 (H) (2)(e) would be eliminated.

There was no discussion by the Board Members.

Mr. Wand indicated that he would proceed with a Notice of Proposed Rulemaking.

### **Mechanical Storage & Counting Device Rules**

Rules Writer Dean Wright opened the discussion by stating that R4-23-615 (B) prohibits a pharmacy permittee or pharmacist in charge from allowing any drug previously counted by a mechanical storage and counting device that has not left the pharmacy from being returned to the drug's original cell, cassette, or stock bottle. The Board staff has become aware that there are pharmacies that can ensure through technology that a drug can be safely returned to the drug's original cell or cassette.

Mr. Wright stated that the proposed rule change would allow a previously counted drug that has not left the pharmacy to be returned to its original cell or cassette if the drug return method is approved by the Board or its designee.

Board Members asked that Mr. Wright remove the term original from the rule.

Mr. Wright indicated that he would proceed with a Notice of Proposed Rulemaking.

### **Pharmacist Licensure/Intern Preceptor/ Prescription Requirements Rules**

Rules Writer Dean Wright opened the discussion by stating that during the Board's 5-year Rule Review on July 10, 2007, the Board identified three rules to amend because of inconsistencies with other rules and one rule to amend by adding a more current incorporation by reference.

Mr. Wright stated that he would make the necessary changes and proceed with a Notice of Proposed Rulemaking.

### **Impaired Licensees Rule**

Rules Writer Dean Wright opened the discussion by stating that in 2003, the Legislature passed SB1301 that changed A.R.S. § 32-1932.01 by replacing the words "pharmacists and interns" with the word licensees."

Mr. Wright stated that to be consistent with the statute, the Board staff is recommending the same changes to R4-23-415 (Impaired Licensees- Treatment and Rehabilitation)

There was no discussion by Board Members.

Mr. Wright indicated that he would proceed with a Notice of Proposed Rulemaking.

### **AGENDA ITEM 15 – Five-Year Review of Rules – Article 6 and 8**

President Berry asked Mr. Wright to address this agenda item.

Mr. Wright stated that the Board must review its rules every five years. This year the Board must review Articles 6 and 8.

Mr. Wright stated that he would like to have any comments by April 15, 2008, so that he may prepare a report for review by the Board Members at the May Meeting.

Mr. Wright stated that the final report is due to the Governor's Regulatory Review Council by July 31, 2008.

Mr. Wand stated that Board Staff has already proposed one change to the Drug Therapy Management Rules that would eliminate the review committee.

Mr. Wand stated that the Board can also state that they do not want to make any changes.

Mr. Wand stated that if the Board does not complete the review then the rules could expire.

#### **AGENDA ITEM 16 – Update on Prescription Monitoring Program**

President Berry asked Mr. Wright to address this topic.

Mr. Wright stated that he is requesting the appointment of four new members to the Computerized Central Database Tracking System Task Force

Mr. Wright stated that Laura Reitz and Barbara Roberts are no longer able to serve on the task force.

Mr. Wright stated that the following individuals are requesting appointment to the task force: Tom Van Hassel, Julie Antilla, David Wickey, and Chris Garland.

**On motion by Mr. Haiber and seconded by Mr. McAllister**, the Board unanimously appointed the four new members to the task force.

Mr. Wright stated that with the appointment of the four new members that would bring the membership of the task force up to 19 members.

#### **AGENDA ITEM 17 – Selection of Long Term Care Task Force Members**

President Berry asked Mr. Wand to address this agenda item.

Mr. Wand stated at the last meeting it was decided that the Board would like to form a Long Term Care Task Force to review the long term care rules.

Mr. Wand stated that the following names were submitted as individuals that would like to serve on the task force: Bhavesh Soni, Ron Skornicka, John Salibia, Lynda Rockwell or Scott Huhn, and Amjad Farhoud.

President Berry stated that she would like to serve as Chairman for the task force. Dr. Smidt agreed to serve on the task force.

**On motion by Mr. McAllister and seconded by Mr. Van Hassel**, the Board unanimously approved the individuals listed by Mr. Wand to serve on the Long Term Care Task Force.

Mr. Wand indicated that if there are other individuals that would be interested in serving on the task force they could contact him at the office.

#### **AGENDA ITEM 18 - Review of Board Meeting Schedule – May Meeting date**

President Berry opened the discussion by stating that several Board Members had conflicts with the May Board Meeting date.

The Board agreed to move the meeting to May 14 and 15, 2008.

**AGENDA ITEM 19 – Low Cost Pharmacy – Discussion and Possible Action  
Regarding Low Cost’s Petition for Rehearing, the State’s Response to Low Cost’s  
Petition for Rehearing, and Low Cost’s Offer of Settlement**

Low Cost Owner John Rao and Legal Counsel Adam Palmer were present.

President Berry asked Mr. Palmer if he would like to address the Board.

Mr. Palmer stated that he has filed two possible actions with the Board. Mr. Palmer stated that the one is a petition for a rehearing. Mr. Palmer stated that he has also filed an offer of settlement with the Board.

Mr. Palmer stated that he would like to address the offer of settlement. Mr. Palmer stated that they have decided that they do not want to practice in Arizona any longer.

Ms. Campbell stated that Low Cost wants to voluntarily surrender their license in lieu of disciplinary action.

Ms. Campbell stated that the appeal that is in the Court of Appeals would not be affected by the settlement. Ms. Campbell stated that if the Board decides to accept the surrender then the Court of Appeals would need to be notified.

Dr. Smidt asked if Low Cost could open at a later date if they surrender their license. Mr. Munns stated that Low Cost could apply and it would be up to the Board to decide if they would like to issue a license.

Mr. Munns stated at this time the Board has two options. The Board can either accept Low Cost’s petition for rehearing or accept the offer of settlement.

Mr. Munns stated that Low Cost does not want a Consent Agreement that involves disciplinary action.

Mr. Munns stated that the Board could review the order and change the disciplinary action in the order section.

Mr. Van Hassel stated that Mr. Palmer stated that they do not want to accept the Findings of Fact.

Mr. Wand asked Mr. Palmer if they were willing to accept any findings of fact. Mr. Palmer stated that they prefer the order would state that they neither admit nor deny the Findings of Fact.

Mr. Munns stated that if the Board would like to grant a motion for review they could consider the review at the May meeting.

## **AGENDA ITEM 20 – Hearings/Motions to Deem**

### **#1 Shad Andreas**

President Berry opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Berry asked if Mr. Andreas was present. Mr. Andreas was not present.

President Berry asked if the Assistant Attorney General would like to make any comments.

Ms. Campbell stated that a complaint was filed and Mr. Andreas failed to respond and at this time the Board may grant or deny the State's motion to Deem Allegations Admitted.

President Berry asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

**On motion by Mr. Haiber and seconded by Mr. McAllister**, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted.

A roll call vote was taken. ( Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Milovich-aye, Mr. Haiber –aye, Mr. McAllister – aye, and President Berry –aye).

President Berry asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Berry stated that the Board would now deliberate on the appropriate discipline to be imposed.

**On motion by Dr. Smidt and seconded by Mr. Haiber**, the Board unanimously agreed to revoke Pharmacy Technician License T005200 issued to Shad Andreas. A roll call vote was taken. (Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Milovich-aye, Mr. Haiber –aye, Mr. McAllister – aye, and President Berry –aye).

### **#2 Alicia Hernandez**

President Berry opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.



President Berry asked if Ms. Hernandez was present. Ms. Hernandez was not present.

President Berry asked if the Assistant Attorney General would like to make any comments.

Ms. Campbell stated that a complaint was filed and Mr. Andreas failed to respond and at this time the Board may grant or deny the State's motion to Deem Allegations Admitted.

President Berry asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

**On motion by Mr. McAllister and seconded by Dr. Smidt**, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted.

President Berry asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Berry stated that the Board would now deliberate on the appropriate discipline to be imposed.

**On motion by Mr. Haiber and seconded by Mr. McAllister** the Board unanimously agreed to revoke Pharmacy Technician License T003549 issued to Alicia Hernandez. A roll call vote was taken. (( Mr. Van Hassel – aye, Ms. Galindo – aye, Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Milovich-aye, Mr. Haiber –aye, Mr. McAllister – aye, and President Berry –aye).

## **AGENDA ITEM 21 - Review of Continuing Education Requirements**

President Berry asked Mr. Wand to address this topic.

Mr. Wand stated at the last meeting the Board Members asked the staff to research if other states had changed their requirements concerning the adoption of the "P" or "T" designation for continuing education. Mr. Roberts, an Intern at the Board Office, researched the topic and found several states that did change their CE requirements. Mr. Roberts made a spread sheet showing the states that have changed their CE requirements.

Mr. McAllister stated that at a recent convention he attended the CE was marked "P" or "T" or for both. Mr. McAllister stated that the Pharmacy Technicians were not allowed to attend CE sessions marked with a "P".

Mr. Haiber stated that the Board may want to allow Pharmacy Technicians to obtain either designation for a period of time, since he feels that there would not be enough programs available for Pharmacy Technicians.

Mr. Van Hassel stated that the CE education marked “P” should be extended to either Pharmacists or Pharmacy Technicians.

Dr. Berry stated that she felt that the Pharmacists should do “P” CE programs and the Pharmacy Technicians could complete either program.

Mr. Wand stated that a substantive policy could be written that states that Pharmacists must do CE with the “P” designation and Pharmacy Technicians could do CE with either the “P” or “T” designation.

Mr. Wand stated that there is also a new code for CE dealing with patient safety. Mr. Wand stated that the new code would be 05. Mr. Wand noted that there would be some lag time for CE providers to start requesting the 05 designation over the 04 (General Education) designation.

### **AGENDA ITEM 22 – Review of Durable Medical Equipment Licensing in Other States**

President Berry asked Mr. Wand to address this issue,

Mr. Wand stated at the last meeting there were questions raised concerning the licensing of Durable Medical Equipment and Vendors. Mr. Wand stated that Mr. Roberts, an Intern at the Board Office, researched the topic and created a spread sheet and chart showing Pharmacy Boards that license durable medical equipment vendors and what items are licensed as durable medical equipment.

Mr. Wand stated that a Bill was proposed in this legislative session that would require the Pharmacy Board to license DME vendors. At the present time, the Bill has not proceeded through the legislative process.

At this time, the Board Members decided to take no action.

### **AGENDA ITEM 23 – New Travel Policy**

President Berry asked Mr. Wand to address this agenda item.

Mr. Wand stated that Mr. Dobrowski has placed the new state travel policies and forms on the flash drive given to each Board Member.

Mr. Wand stated that if any Board Members have questions about the travel policy they may contact him or Mr. Dobrowski.

### **AGENDA ITEM 24 – Call to the Public**

President Berry announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

Mr. Morris came forth to express his concerns about the proposed rules for returning medications back to mechanical counting devices. Mr. Morris stated that the Board could save time approving each device if the Board could list devices that they have approved on the Board's website.

**AGENDA ITEM 25 – Discussion of Items to be placed on a future meeting agenda**

Mr. Wand asked Ms. Campbell to give a brief overview of open meeting laws.

**AGENDA ITEM 26 – Adjournment**

There being no further business to come before the Board, **on motion by Mr. Van Hassel and seconded by Dr. Smidt**, the Board unanimously agreed to adjourn the meeting at 11:30 A.M.